

Applicant : Bruce A. Lessey
Serial No. : 10/762,441
Filed : January 21, 2004

Attorney's Docket No.: 17181-002005 / 2101G
Amendment After Final under 37 CFR §1.116

REMARKS

Applicant wishes to thank the Primary Examiner for the courtesy extended in granting a telephonic interview to discuss outstanding issues in this application.

The requisite fee for filing a Terminal Disclaimer pursuant to 37 C.F.R. §1.20(d), and any other fees that may be due in connection with the filing of this paper or with this application during its pendency may be charged to Deposit Account No. 06-1050. If a Petition for Extension of time is needed, this paper is to be considered such Petition. A terminal disclaimer with respect to commonly owned U.S. Patent No. 5,279,941 is filed herewith.

Claims 1-16 are presently pending in this application.

PROVISIONAL REJECTION OF CLAIMS 1-16 FOR OBVIOUSNESS-TYPE DOUBLE PATENTING

Claims 1-16 are rejected under the judicially created doctrine of obviousness-type double patenting over claims 9-17 of U.S. Patent No. 5,279,941. It is alleged in the Office Action, mailed October 4, 2004, that although the conflicting claims are not identical, they allegedly are not patently distinct.

While not necessarily agreeing with the propriety of this rejection, a Terminal Disclaimer is filed herewith with respect to U.S. Patent No. 5,279,941. Since this application is owned by the same entity as U.S. Patent No. 5,279,941, the terminal disclaimer filed by the undersigned on behalf of the owner in accord with 37 C.F.R. §1.321(b) and (c), should be effective in overcoming this basis for rejection.

Applicant respectfully submits that the rejection over this patent have been obviated. Therefore, the application is in condition for allowance.

* * *

In view of the above, examination of the application on the merits and allowance is respectfully requested.

Respectfully submitted,

Stephanie Seidman
Reg. No. 33,779

Attorney Docket No. 17181-002005 / 2101G
Address all correspondence to:
Stephanie Seidman
Fish & Richardson P.C.
12390 El Camino Real
San Diego, California 92130
Telephone: (858) 678-5070
Facsimile: (202) 626-7796
email: scidman@fr.com